

C O N F I D E N T I A L

DD/082-0397

Executive Registry

82-0253/

MEMORANDUM FOR: Director, Equal Employment Opportunity

FROM:

[REDACTED]
Deputy Director for Operations

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SUBJECT: Authority to Issue Agency Dispositions of EEO
Complaints

REFERENCE: Memorandum EEO-82-598, dated 21 January 1982

1. I am disturbed by the implications of your memorandum to me concerning your authority "to prepare, issue, and implement if accepted by Complainants (emphasis added), all Agency Proposed Dispositions" of EEO complaints. This radical departure from established procedures appears to me to be unwise and unwarranted.

2. As Deputy Director for Operations I am responsible for preserving the integrity of the personnel management system in this directorate. Because of my commitment, and that of my predecessors, to the basic principles of fairness and equality of opportunity for all DO employees, this directorate has compiled what I believe to be a commendable record of accomplishing most of its affirmative action goals and of resolving EEO-related disputes. Resolution of such matters has been accomplished in ways which satisfy not only the needs and aspirations of the employees involved, but also the unique needs of the D Career Service. In most cases, DO employees who feel they have been subjected to discriminatory treatment have chosen to work within our career management system to resolve such issues. Because of the high caliber and dedication of officers assigned to the DO Career Management Staff (including the DO EEO officer, a D careerist whom I appointed to this sensitive position because of my confidence in her ability to balance her strong commitment to racial and sexual equality with her thorough understanding of and dedication to the mission of this directorate), DO employees who seek career counselling have come to expect equitable and timely resolution of a wide range of professional and personal problems. In fact, on several occasions DO employees with EEO-related complaints have requested specifically that DO management,

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rather than the Office of EEO, address their concerns because they believed that the OEEEO investigative system was too bureaucratic and that preconceptions on the part of certain investigators might have created an atmosphere of hostility within their offices which would not have been conducive to resolving their problems.

3. As for those complaints which have not been resolved to the employees' satisfaction in-house, and which have been investigated by your office and returned to us for administrative adjudication at the directorate level, we have made good-faith efforts to reach accommodations with complainants. When those efforts have failed, it has been because our own investigation of the complainants' charges (including our assessment of relevant information which is sometimes overlooked by OEEEO investigators), does not support their perceptions of discrimination and/or because granting the sometimes disproportionate restitution they have sought would, in itself, be unfair to all other DO employees who compete for promotion and key assignments on the basis of merit. Our re-investigation of EEO complaints, which requires substantially longer than the two weeks provided for in your memorandum, is necessary because we have found that investigative files supplied by your office have omitted relevant substantive information which directorate and Agency managers require to make informed judgements about the merits of a complaint. As long as I am responsible for determining this directorate's position with respect to charges of discrimination brought against its managers, I shall continue to insist that my staff provide me with the information I need to make a fair and equitable decision in each case -- no matter how long it takes.

4. If your memorandum is meant to imply that you can now act on your own to resolve EEO complaints without considering the legitimate and relevant views of the deputy directors, the General Counsel, and the Director of Personnel, relying solely on the findings and conclusions of your staff investigators and the acceptability of your proposed resolutions to the individual complainants, I believe that we are headed for major problems in the future. Indeed, if you are telling me that you have blanket authority to overrule unilaterally this directorate's positions

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on EEO matters, then I can see little except perhaps cosmetic reasons for the continued commitment of directorate resources to investigating, negotiating and attempting to reach informal adjustments with complainants on terms acceptable both to them and to the directorate. I can see no reason, under the system outlined in your memorandum, for a complainant to be willing to compromise on his or her demands or accept anything less from directorate management than he or she has asked for in the original complaint, since the final authority to grant complainants' requests would now be yours.

5. One of the major problems inherent in the revised system you propose is apparent in paragraph five of your memorandum which refers to "...the [redacted] case now in your directorate..." as one in which you will, "if necessary," issue the Agency disposition. The implication of this misleading statement is that the DO should now be involved in seeking an informal adjustment of [redacted] EEO complaint. In fact, this directorate has not yet been informed of the substance of [redacted] EEO complaint, although we have been involved for some time in investigating a grievance matter which he has brought to our attention. The only information this directorate's EEO officer has received from your staff was contained in a memorandum from your office dated 28 September 1981, in which the following statement was entered under a listing of EEO cases concerning the DO: [redacted] OEEEO reviewing investigative file. On 27 January 1982, after receiving a copy of your memorandum, the DO EEO officer discussed this situation with the chief of your Complaints Staff. The latter informed the former that the [redacted] case files are still in your office and are still being reviewed there by a member of your staff. Your complaints chief further informed the DO EEO officer that, according to her own interpretation of her authority, OEEEO had fulfilled its obligation to notify this directorate of the [redacted] complaint by listing it in the September memorandum and that OEEEO will forward the investigative file for DO action at some future time.

6. We are prepared to continue our efforts to resolve discrimination complaints made by our employees, whom we regard as our most important resource. We will not, however, be bound by arbitrary deadlines and procedures established for the convenience of your office and without regard for the legitimate needs of the personnel management system in this directorate. I hope that you will cooperate with us in solving these problems in the future.

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ORIG: DO/CMS/EEO, (2 Feb 82)

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Distribution:

Original - Addressee

1 - DDO

1 - DDO Registry

1 - Executive Director (w/ref. attached)

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